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In re Application of :  
LUSK, Paul D. et al. :  
Application No.: 09/673,230 :  
PCT Application No.: PCT/US99/07737 :  
International Filing Date: 14 April 1999 :  
Priority Date: 14 April 1998 :  
Attorney Docket No.: 960067.ORI :  
For: DINITROTOLUENE (DNT)-FREE :  
SINGLE BASE PROPELLANT :

DECISION ON

PETITION

UNDER 37 CFR 1.137(b)

This is a decision on applicants' "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR §1.137(b)," filed in the United States Patent and Trademark Office on 19 November 2001.

**BACKGROUND**

On 14 April 1999, applicants filed international application PCT/US99/07737. A Demand for international preliminary examination was filed 27 October 1999. The thirty month period for entering the national stage in the United States expired at midnight on 16 October 2000 (14 October 2000 was a Saturday).

On 12 October 2000, applicants filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the basic national fee.

On 27 October 2000, the Office mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required. The notification set a one month extendable period for reply. The application went abandoned on 28 April 2001 for failure to respond to the Notification of Missing Requirements.

On 19 November 2001, applicants submitted an executed declaration and a petition to revive.

**DISCUSSION**

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must

be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Applicants statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional," satisfies 37 CFR 1.137(b)(3). A terminal disclaimer is not required as application was filed on or after 08 June 1995.

As to item (2), the declaration supplied does not comply with 37 CFR 1.497(a)-(b). Applicants have supplied one page each of pages 1 through 3, but two pages numbered 4. Each page 4 lists the same inventors, but the pages were separately executed. While it is acceptable for inventors to execute different copies of the declaration, applicants must supply the full copy of the declaration executed by each inventor. Applicants may not piece together pages from different declarations to create a composite declaration. It appears there were at least two copies of the declaration executed. Applicants must supply complete copies of each or submit a new oath or declaration in compliance with 37 CFR 1.497(a)-(b).


### CONCLUSION

The petition to revive the application abandoned under 37 CFR 1.137(b) is **DISMISSED** without prejudice

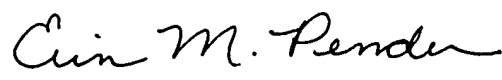
Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The application remains **ABANDONED**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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